

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

	X	
	X	
NARRATIVE ARK ENTERTAINMENT LLC,	X	
	X	
Plaintiff,	X	<b>DECLARATION OF SCOTT D.</b>
	X	<b>FULOP IN OPPOSITION TO</b>
	X	<b>SEGA MOTION TO DISMISS</b>
	X	<b>AMENDED COMPLAINT</b>
	X	
v.	X	Case No.: 7:16-cv- 16-6109 -VB
	X	
ARCHIE COMIC PUBLICATIONS, INC. and	X	Electronically Filed
SEGA OF AMERICA, INC.	X	
Defendants.	X	
	X	

I, Scott D. Fulop, hereby declare as follows:

1. I was first employed by Archie Comic Publications ("ACP") as an editor from August 1988 to May 1991. In May 1991 I left my employment at ACP.
2. In February 1994, Richard Goldwater, President and co-owner of ACP, hired me back as an editor, putting me in charge of producing various comic books featuring Sega of America's (Sega) video game character, Sonic the Hedgehog (Sonic); Mirage Studios' Teenage Mutant Ninja Turtles; and publications featuring the Archie Comics' cast of characters. From February 1994 to my departure from the company, I primarily reported to Richard Goldwater.
3. From February 1994 to January 1996, working regularly in conjunction with various Sega staff managers, I was solely responsible for the supervision of all Sonic publications that were published by the Sega/ACP joint licensing/business venture, including managing production and contributing to promotion.
4. From February 1994 to January 1996, I was solely responsible for hiring all freelance creators for all comic books relating to Sega's properties, including Sonic the Hedgehog and other Sega characters. Many of these freelance Sonic creators were based in New York.
5. As editor, I produced numerous editions of what developed into a family of Sonic publications, many that were direct requests by Sega to expand their intellectual property franchise.

6. As a senior staff editor and manager at ACP and later freelance creator, I am privy to their usual business practices including specifics relating to their relationship with Sega, especially in light of working with Sega closely for several years.

7. Based on ACP's usual business practices, Sega's original contract with ACP was signed by ACP executives in New York. During 1994 to 1996, a physical copy of the contract was held in the office of Fred Mauser, then ACP's Vice President/Director of Circulation.

8. During February 1994 to January 1996, I was ACP's primary contact with Sega. My communications included, but were not limited to, weekly and sometimes daily phone conversations, faxes, and US Mail and other postal carrier contact with Sega staff managers.

9. Initially, my primary Sega staff contact was Licensing Manager Bob Harris. Subsequently, I also was also in regular communication with Sega staff Licensing Managers Jennifer Hunn, Cynthia Wilkes, and Susan Reyes Suarez.

10. In furtherance of the Sega/ACP joint licensing/business venture I also, on several occasions, met in New York and had business discussions with Sega staff Licensing Managers Bob Harris, Jennifer Hunn, Cynthia Wilkes, and Susan Reyes Suarez.

11. While Sega's staff managers did not write ACP's Sonic comic book stories, illustrate the artwork, or create any of the new and original characters and concepts created by Sonic freelance creators, they nevertheless exercised extensive control of all Sonic publications. Sega also took an active role in production of the Sonic comic books including directing ACP to publish certain editions, make use of specific characters, require the inclusion of artwork and certain promotional materials, as well as, at certain times, also denying the use of certain characters and concepts.

12. During the course of their ongoing review process, which included approval or denial of all Sonic comic book scripts and artwork, Sega staff managers often made script, dialogue, and artwork suggestions, additions, and omissions, and sometimes rejected entire scripts and/or concepts submitted by freelance Sonic creators.

13. Sega staff Licensing Manager Bob Harris also oversaw the production of two, Sonic animated TV series. He was especially communicative to me when controlling, directing, and coordinating the contents of Sega's cross media productions.

14. During 1994, Bob Harris supplied me with Sega's *Sonic the Hedgehog and his pals Official Stylebook & Character Manual*. This especially

comprehensive book, unlike a simple intellectual property licensing and style reference guide, included character profiles, biographies, illustrated scenes and environments, logos, packaging standards and instructions, and more. The manual was regularly updated with various printed memorandums and phone conversations, and was used as part of Sega's direct involvement, control, management, and mandates of all Sonic comic books to ensure cross media consistency with all Sega products.

15. Sega managers communicated to me by phone they were performing marketing research to determine if Sega could expand their customer base. Their goals included attracting an audience younger than their average Sonic video game customer, appealing to an expanded female audience, and to ascertain whether the market might support production and sales of video games and other merchandise for those consumers. Subsequently, they directed me to produce two, new Sonic spinoff comic book series including *Prince Sally*, which was published in 1995, and *Tails*, which was published in 1995-1996. Their direction included many editorial mandates and stipulations that exceeded their usual, comprehensive control of the original Sonic comic book. Sega's direction also included printed credits for Bob Harris, Jennifer Hunn, Cynthia Wilkes, and Susan Reyes Suarez to acknowledge their direction and participation.

16. In addition to the above-mentioned titles, Sega also encouraged and participated in the production of other Sonic spinoff comic book publications, playing an additional, active role by supplying support materials including video game systems and game cartridges, artwork, and other materials.

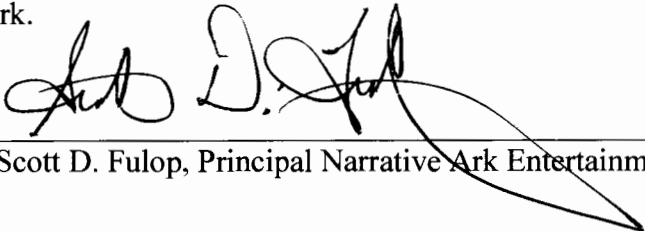
17. Many years after my second tenure at ACP, Sega manufactured, marketed, distributed, and sold a digital version of some of ACP's Sonic comic books, included in their *Sonic Mega Collection* video game. This video game also included digital versions of many Sonic comic book covers, some that infringe upon the copyrighted works now owned by Narrative Ark Entertainment.

18. Subsequent to the release of the *Sonic Mega Collection* video game, Sega again manufactured, marketed, distributed, and sold a digital version of some of ACP's Sonic comic books, included in their *Sonic Mega Collection Plus* video game. This expanded video game also included an expanded collection of Sonic comic book covers and again, some that infringe upon the copyrighted works now owned by Narrative Ark Entertainment.

19. In recent years, Sega marketed, distributed, and sold printed versions of some of ACP's Sonic comic books in a joint licensing/business venture with Jazwares, a toy manufacturer. The venture produced several different *Sonic the Hedgehog Comic Packs*, each pack containing a Sonic comic book and toys. Several of these packs contain comic books that infringe upon works now owned by Narrative Ark Entertainment.

20. In December 2015, during a meeting at the law offices of Plaintiff's counsel, William Mooar, ACP's COO, readily admitted that at the beginning of their joint licensing/business venture Sega allowed ACP to control overseas and foreign language Sonic comic book printing and distribution. Mooar also stated that subsequently, and to date, Sega controls Sonic comic book overseas and foreign language printing and distribution. So far, I have discovered two of these publishers have printed and distributed Sonic comic books that infringe upon works now owned by Narrative Ark Entertainment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 29<sup>th</sup> day of December, 2016, in Mamaroneck, New York.



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Scott D. Fulop, Principal Narrative Ark Entertainment LLC